

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL BRYAN KELLY, JR.,

Defendant and Appellant.

C080905

(Super. Ct. No. NCR95227)

Appointed counsel for defendant Daniel Bryan Kelly, Jr., has filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

BACKGROUND

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On July 29, 2015, an officer with the California Department of Forestry and Fire Protection stopped defendant due to erratic driving and a burnt-out headlight. Defendant consented to a search of his car and officers found a glass-smoking pipe and a loaded pistol with extra ammunition. Defendant attempted to flee as officers placed him under arrest.

Defendant was charged with being a felon in possession of a firearm (count I, Pen. Code, § 29800, subd. (a)(1)),¹ being a felon in possession of ammunition (count II, § 30305, subd. (a)(1)), resisting a peace officer (count III, § 148), and possessing drug paraphernalia (count IV, Health & Saf. Code, § 11364.1, subd. (a)(1)). With respect to counts I and II, it was also alleged defendant had a prior strike and had served two prior prison terms. (§§ 1170.12, subds. (a)-(d), 667, subds. (b)-(i), 667.5, subd. (b).)

Defendant pleaded guilty to count I, and the trial court dismissed the remaining counts and special allegations. Per the parties' agreement, the trial court sentenced defendant to serve three years' imprisonment, with 249 days' presentence custody credit. The trial court imposed a \$400 restitution fine (§ 1202.4, subd. (b)), a corresponding parole revocation fine suspended unless parole is revoked (§ 1202.45), a \$40 court operations fee (§ 1465.8), and a \$30 conviction assessment (Gov. Code, § 70373).

Defendant filed a notice of appeal. He did not request a certificate of probable cause.

DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and asks us to determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing of

¹ Undesignated statutory references are to the Penal Code.

the opening brief. More than 30 days have elapsed, and we have received no communication from defendant. We have undertaken an examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

_____/s/
HOCH, J.

We concur:

_____/s/
RAYE, P. J.

_____/s/
BLEASE, J.